

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MICHELLE AMBER MAGANA,
a/k/a MICHELLE TESCHLER, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
August 15, 2006

Petitioner-Appellee,

v

MICHAEL MAGANA,

Respondent-Appellant,

and

AMBER TESCHLER and JOHN DOE,

Respondents.

No. 268748
Macomb Circuit Court
Family Division
LC No. 2005-5851311-NA

Before: Whitbeck, C.J., and Hoekstra and Wilder, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (g), and (h). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent-appellant argues that the trial court erred by denying him additional time to establish paternity for his child under MCR 3.921(C)(2)(b). This issue is unpreserved because respondent-appellant never requested additional time to establish paternity. *In re NEGP*, 245 Mich App 126, 134; 626 NW2d 921 (2001). However, even if respondent-appellant had requested additional time, the trial court gave respondent-appellant at least six months to establish paternity and appointed counsel for respondent-appellant despite his failure to establish paternity. Therefore, we find no error.

Respondent-appellant also argues that the trial court clearly erred in finding that the statutory grounds for termination were established by clear and convincing evidence and in its best interests determination. We disagree. Respondent-appellant was incarcerated at the time of the child's birth and had an earliest possible release date of October 2008. He never established

paternity for the child and admitted that he could not provide proper care and custody for her. Based on the above facts, the trial court did not clearly err in finding that respondent-appellant deserted the child for 91 or more days and did not seek custody of her, failed to provide proper care and custody and could not do so within a reasonable time, and that the would be in danger if returned to respondent-appellant's home (because he had no home). MCR 3.977(J). We also find that the trial court did not clearly err in its best interests determination where respondent-appellant had no relationship with the child. MCL 712A.19b(5).

Affirmed.

/s/ William C. Whitbeck

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder